

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

KENNETH LAMBERT,

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner
of Social Security,

Defendant.

CV 20–70–M–DLC–KLD

ORDER

On February 10, 2020, United States Magistrate Judge Kathleen L. DeSoto entered her Findings and Recommendation (“F&R”) recommending that Plaintiff Kenneth Lambert’s motion for summary judgment be granted and the Commissioner’s decision denying Lambert’s claims for disability insurance benefits and supplemental security income benefits be reversed. (Doc. 17 at 43.) No party objects and so the Court will review for clear error. 28 U.S.C. § 636(b)(1)(C); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

There is no clear error in Judge DeSoto’s meticulous F&R which documents, in considerable detail, the evidence in the record that the ALJ

improperly discounted or failed to address when she denied Lambert's claims. In sum, Judge DeSoto is correct the ALJ erred by failing to give specific and legitimate reasons for discrediting the medical opinions of: (1) Dr. Wohans and ARNP Alderman; (2) Drs. Billington, McCormack, and Wong; and (3) NP Lydon. The Court agrees that the ALJ erred by improperly discrediting the lay testimony of Bridget Lambert and by failing to provide clear and convincing reasons for discrediting Lambert's own subjective testimony. Finally, the Court agrees that these errors likely impacted the ALJ's residual functional capacity determination and therefore remand is necessary. Accordingly,

IT IS ORDERED that the F&R (Doc. 17) is ADOPTED in full.

1. Plaintiff's motion for summary judgment (Doc. 13) is GRANTED.
2. The Commissioner's decision is REVERSED.
3. This matter is REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Order and Judge DeSoto's F&R.

DATED this 5th day of May, 2021.



Dana L. Christensen, District Judge
United States District Court